

# Board of Zoning Adjustment Staff Report

May 21, 2018



<b>Case No:</b>	18DEVPLAN1002
<b>Project Name:</b>	Cat 2B 3255 Bardstown Road
<b>Location:</b>	3255 Bardstown Road
<b>Owner(s):</b>	Drew Zazofsky – Thorntons Inc.
<b>Applicant:</b>	Prateek Gupta – Realcraft Property Solutions LLC.
<b>Representative(s):</b>	Michael Hill – Land Design and Development Inc.
<b>Project Area/Size:</b>	2.12 acres (92,442 s.f.)
<b>Zoning:</b>	C-2
<b>Form District:</b>	Suburban Marketplace Corridor
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	26 – Brent T. Ackerson
<b>Case Manager:</b>	Ross Allen – Planner I

**REQUEST(S)**

- Request Approval of **Variance** from LDC 5.3.2.C.2.b to allow the proposed 4-story hotel to encroach into the 25 ft. rear setback adjacent to the Father Maloney’s Boys and Girls Haven.

Location	Requirement	Request	Variance
Rear Setback	25 ft.	5 ft. (tract 2-2)	20 ft.

- Request Approval of a **Waiver #1** from LDC 5.9.2.A.1.b.i and v to not provide a pedestrian connection from the Bardstown right of way traversing a parking lot with more than 100 spaces to the proposed 4-story, 119 room hotel.
- Request Approval of a **Waiver #2** from LDC 10.2.4.A; table 10.2.3 to not provide a 35 ft. LBA with 1.0 planting density requirement with an 8 foot screen along the northern property line for an approximate length of 383 ft. as facing R-5 zoned parcels in a Campus Form District for proposed tract 2 - 2.
- Request Approval of a **Waiver #3** from LDC 10.2.4.A; table 10.2.3 to not provide a 20 ft. LBA with 1.0 planting density requirement with an 6 foot screen along the western property line for an approximate length of 162 ft. as facing Interstate 264 Ramp East for proposed tract 2 - 2.

**CASE SUMMARY/BACKGROUND**

This case was originally scheduled for the April 30, 2018 BOZA hearing at which time the applicant/representative had requested a deferment which the Board of Zoning Adjustment set as May 21, 2018, the next available meeting date.

The subject site is located east of Bardstown Road, south of I-264, north of Goldsmith Lane, and west of the AMF Bowling Alley in the central eastern portion of Jefferson County on a parcel of approximately 2.12 acres on a C-2 zoned parcel within a Suburban Marketplace Corridor Form District. The subject site was previously a residence Inn hotel consuming both tracts 2 -1 and 2 – 2 (Subject site) on the development plan and tract 2 – 2 is currently vacant. The subject site is northwest of a USGS intermittent stream running along the southeastern property line. Access to the proposed hotel will be from a curb cut off of Goldsmith Lane with an 60 ft. wide appurtenance (D.B.5825 PG.350, D.B.10446 PG. 550) leading into a 24 ft. appurtenance traversing

the AMF Bowling Centers Inc. property and leading to the subject site eastern property line with a 24 ft. wide entrance/exit.

The applicant is proposing to construct a 4-story (45 ft. tall) 119 room hotel (13,480 s.f. footprint) running parallel to the northern property line adjacent to Father Maloney's Boys and Girls Haven. The proposal will include a 41,065 sf. vehicular use area (VUA) with 119 spaces, the minimum allowed per the number of sleeping rooms, with 11% interior landscaping areas, exceeding the LDC requirement. Last, the subject site (tract 2-2) currently has 14,200 sf. of existing tree canopy, the applicant is preserving 13,000 sf. and will provide 15,160 sf of tree canopy (16% of the site) with plantings (existing and proposed) meeting the requirements of LDC.

### **Related Cases:**

- **2-11-15:** Tract 2 -1 on current development plan. A category 2B development plan for a 4,409 sf. gas station with a 53,095 sf. vehicular use area with 42 parking spaces including a gas canopy with 10 pumps and two ADA accessible parking spaces. Staff approved on July 29, 2015.
- **15LSCAPE1072:** Accompanying landscaping plan for case no. 2-11-15 Category 2B Development plan as located at 3255 Bardstown Road including both tracts (tracts 2-1 and 2-2) as shown on case no. 18DEVPLAN1002. Staff approved on 8-25-2015.
- **18MINORPLAT1011:** A large format minor subdivision plat to create two lots/tracts from one 4.573 acre parcel zoned C-2 in a Suburban Marketplace Corridor Form District. Currently, under review and has not yet been recorded at the Jefferson County Clerk's Office as of 4/16/2018.

### **STAFF FINDING / RECOMMENDATION**

**Variance** from LDC 5.3.2.C.2.b to allow the proposed 4-story hotel to encroach into the 25 ft. rear setback adjacent to the Father Maloney's Boys and Girls Haven.

**Waiver #1** from LDC 5.9.2.A.1.b.i and v to not provide a pedestrian connection from the Bardstown right of way traversing a parking lot with more than 100 spaces to the proposed 4-story, 119 room hotel.

**Waiver #2** from LDC 10.2.4.A; table 10.2.3 to not provide a 35 ft. LBA with 1.0 planting density requirement with an 8 foot screen along the northern property line for an approximate length of 383 ft. as facing R-5 zoned parcels in a Campus Form District for proposed tract 2 - 2.

**Waiver #3** from LDC 10.2.4.A; table 10.2.3 to not provide a 20 ft. LBA with 1.0 planting density requirement with an 6 foot screen along the western property line for an approximate length of 162 ft. as facing Interstate 264 Ramp East for proposed tract 2 - 2.

**Condition of Approval #1:** A revised landscaping plan be submitted for existing case no. 15LSCAPE1072 for the gas station site located at 3255 Bardstown Rd. and a separate landscaping plan be submitted for tract 2 – 2 as shown on case no. 18DEVPLAN1002.

**Condition of Approval #2:** The variance and three waivers will be on condition that 18MINORPLAT1011 is recorded with a defined access agreement as reviewed by Planning Commission Legal Counsel and consistent with the 18DEVPLAN1002 prior to Category 2B Development Plan approval.

**Condition of Approval #3:** Per note #16 under General Notes on the Preliminary approved development plan elevations will need to be submitted to staff for approval prior to issuance of building permits prior to staff approving the Category 2B development plan.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b>Subject Property</b>			
<b>Existing</b>	Commercial – vacant	C-2	Suburban Marketplace Corridor
<b>Proposed</b>	Commercial - Hotel	C-2	Suburban Marketplace Corridor
<b>Surrounding Properties</b>			
<b>North</b>	Residential Single Family – Father Maloney’s Boys and Girls Haven	R-5	Campus
<b>South</b>	Commercial – Thornton’s Gas Station, Liquor World, and Pet’s Palace	C-2	Suburban Marketplace Corridor
<b>East</b>	Commercial – AMF Bowling Alley and Pet’s Palace	C-2	Suburban Marketplace Corridor
<b>West</b>	Bardstown Rd. ROW, Interstate 264 Eastbound Ramp, and Multifamily Residential – Addison Park Apartment Homes	C-2	Suburban Marketplace Corridor

**TECHNICAL REVIEW**

Transportation Planning and MSD have preliminarily stamped the development plan.

**INTERESTED PARTY COMMENTS**

Staff has not received any comments from interested parties.

**APPLICABLE PLANS AND POLICIES**

Land Development Code (LDC August 2017a)  
Comprehensive Plan (Cornerstone 2020)

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE from LDC 5.3.2.C.2.b to allow the proposed 4-story hotel to encroach into the 25 ft. rear setback adjacent to an R-5 zoned parcel within the Campus Form District (Father Maloney’s Boys and Girls Haven).**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare since the proposed 4 story hotel is approximately 5 feet at the closest point from the rear property line and the adjacent parcel being an R-5 zoned parcel, consist of an existing tree line with a large open space. The closest structure on the adjacent property is approximately 62 feet north/northeast of the proposed hotel.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity because the site had previously been used as a hotel with multiple structures.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a nuisance to the public because the proposed 4 story hotel is adjacent (parallel) to the property line and will not be accessible by hotel patrons nor the general public. No access is proposed for the north side of the proposed 4 story hotel so, the proximity of the building will have no negative impacts on the area.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations because the applicant is requesting approval to locate the proposed hotel upon the footprint of where a previously demolished hotel was present.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone.

STAFF: Special circumstances in this case include the fact that a hotel building was located on the property in this location for many years prior to the adoption of the non-residential to residential setback regulations being adopted.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the applicable setback regulation would require the building to be moved south approximately 20 feet, which would require a complete redesign of the existing parking lot. Recent changes to MSD rules related to the elevation of parking lots located in the floodplain would restrict the applicant since the previous impervious surface is being reutilized.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought. The applicant is proposing to develop the site after the adoption of the applicable regulation.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1 from LDC 5.9.2.A.1.b.i and v to not provide a pedestrian connection from the Bardstown right of way traversing a parking lot with more than 100 spaces to the proposed 4-story, 119 room hotel.**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: This waiver will not adversely affect adjacent property owners because this property has never had a pedestrian connection to Bardstown Road and there are plenty of other pedestrian walkways in the vicinity.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 9, Policy A.1 states "New development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with walkways for access to public transportation stops." The applicant has a recessed frontage along Bardstown Road/I-264 east bound on-ramp with an existing sidewalk. However, to the interior of the sidewalk along that frontage there is a drainage culvert present. Vehicular access to the site will be off of Goldsmith Lane via an appurtenance which traverses two other properties one being a parcel owned by AMF Bowling Centers Inc. The applicant states granting the waiver will not violate the Comprehensive Plan because there are multiple options for pedestrian and vehicular circulation in this area.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The applicant is requesting the minimum necessary relief that will allow the property to be redeveloped in the manner it was originally designed and developed many years ago.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: Due to natural features in the right-of-way adjacent to the site, that would better serve the area if preserved, it is not practical to require a pedestrian connection from this site to the existing sidewalk along Bardstown Road.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2 from LDC 10.2.4.A; table 10.2.3 to not provide a 35 ft. LBA with 1.0 planting density requirement with an 8 foot screen along the northern property line for an approximate length of 383 ft. as facing R-5 zoned parcels in a Campus Form District for proposed tract 2 - 2.**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect the adjacent property owners because there will still be a significant amount of greenspace between the proposed building and the existing buildings on the adjacent developed property.

- (b) The waiver will violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate several guidelines such as:

Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The development, even with the waivers will still meet the intent of the Comprehensive Plan in that the building will still be located a significant distance from the buildings on the adjacent property. Furthermore, existing and proposed plantings along the affected property line will provide sufficient screening between the two properties. The proposed hotel acts as a screen for the vast majority of the vehicular use area as adjacent to the R-4 zoned property to the north.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The applicant is requesting the minimum necessary relief that will allow the new hotel to occupy the area on the site where the previous hotel building was located, keeping the building in a similar fashion to how the property was originally designed and developed many years ago.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the applicable setback regulation would require the building to be moved south approximately 35 feet, which would require a complete redesign of the existing parking lot due to recent changes to MSD rules related to the elevation of parking lots located in the floodplain. The applicant is reutilizing the vast amount of existing asphalt/pavement that existed on this site from the previous hotel.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #3 from LDC 10.2.4.A; table 10.2.3 to not provide a 20 ft. LBA with 1.0 planting density requirement with an 6 foot screen along the western property line for an approximate length of 162 ft. as facing Interstate 264 Ramp East for proposed tract 2 - 2.**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect the motorists or pedestrians along Bardstown Rd./I-264 east bound on-ramp because there will still be a significant amount of existing plantings between the proposed building and right of way.

- (b) The waiver will violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate several guidelines such as:

Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The development, even with the waivers will still meet the intent of the Comprehensive Plan in that the building will still be located a significant distance from the buildings on the adjacent property. Furthermore, existing plantings along the affected property line will provide sufficient screening between the subject

property and Bardstown Rd./I-264 east bound on-ramp.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The applicant is requesting the minimum necessary relief that will allow the new hotel to occupy the area on the site where the previous hotel building was located, keeping the building in a similar fashion with how the property was originally designed and developed many years ago.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the applicable landscape buffer setback regulation would duplicate the existing screening when screening is already present and buffering the proposed 4-story hotel.

### **REQUIRED ACTIONS**

**Approve/Deny Variance** from LDC 5.3.2.C.2.b to allow the proposed 4-story hotel to encroach into the 25 ft. rear setback adjacent to the Father Maloney's Boys and Girls Haven.

**Approve/Deny Waiver #1** from LDC 5.9.2.A.1.b.i and v to not provide a pedestrian connection from the Bardstown right of way traversing a parking lot with more than 100 spaces to the proposed 4-story, 119 room hotel.

**Approve/Deny Waiver #2** from LDC 10.2.4.A; table 10.2.3 to not provide a 35 ft. LBA with 1.0 planting density requirement with an 8 foot screen along the northern property line for an approximate length of 383 ft. as facing R-5 zoned parcels in a Campus Form District for proposed tract 2 - 2.

**Approve/Deny Waiver #3** from LDC 10.2.4.A; table 10.2.3 to not provide a 20 ft. LBA with 1.0 planting density requirement with an 6 foot screen along the western property line for an approximate length of 162 ft. as facing Bardstown Road/Interstate 264 Ramp East for proposed tract 2 - 2.

**Condition of Approval #1:** A revised landscaping plan be submitted for existing case no. 15LSCAPE1072 for the gas station site located at 3255 Bardstown Rd. and a separate landscaping plan be submitted for tract 2 – 2 as shown on case no. 18DEVPLAN1002.

**Condition of Approval #2:** The variance and three waivers will be on condition that 18MINORPLAT1011 is recorded with a defined access agreement as reviewed by Planning Commission Legal Counsel and consistent with the 18DEVPLAN1002 prior to Category 2B Development Plan approval.

**Condition of Approval #3:** Per note #16 under General Notes on the Preliminary approved development plan elevations will need to be submitted to staff for approval prior to issuance of building permits prior to staff approving the Category 2B development plan.

## NOTIFICATION

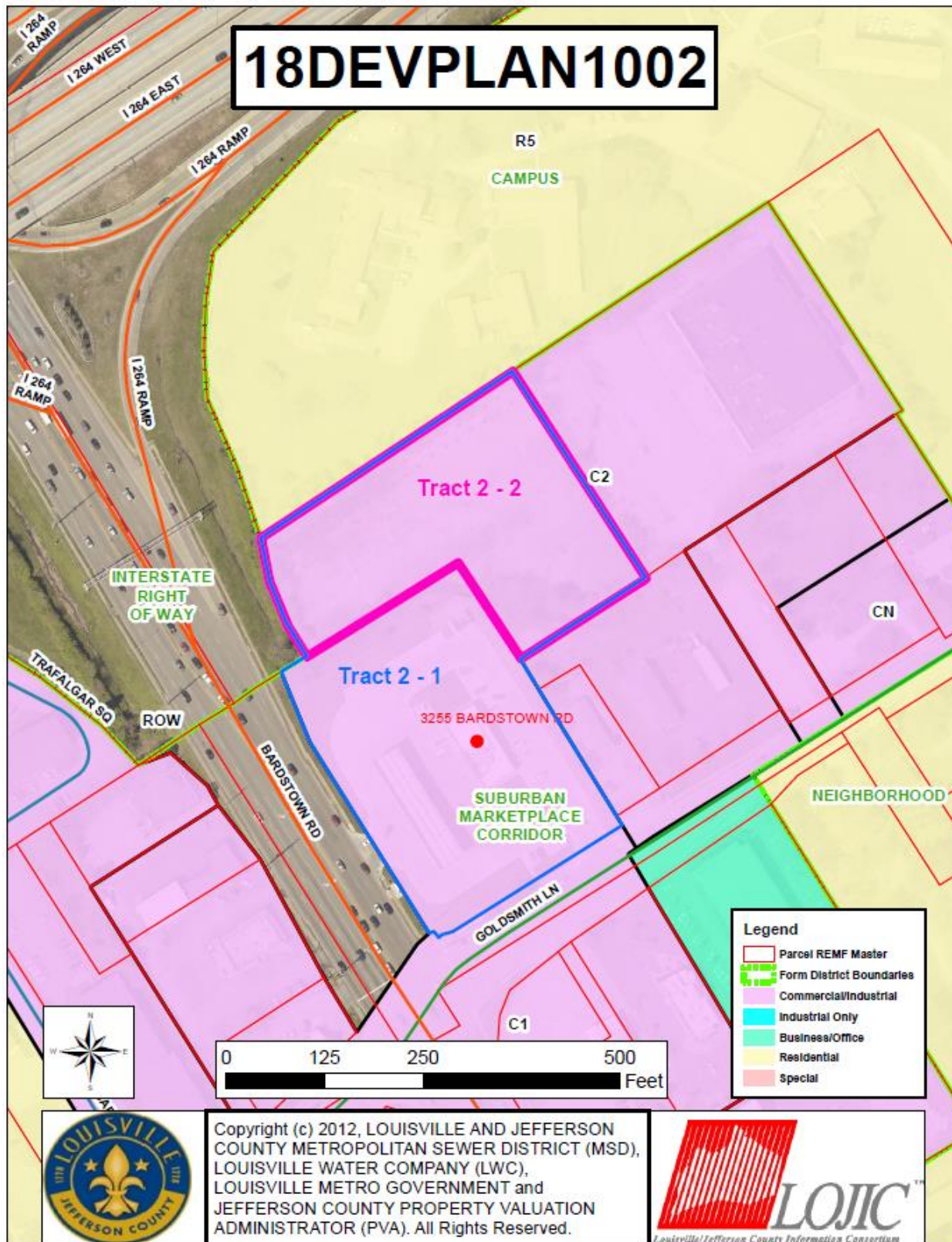
Date	Purpose of Notice	Recipients
May 4, 2018	Re-posting of Variance Sign	Subject property located at 3255 Bardstown Road
April 30, 2018	Hearing before BOZA (Continued from April 30, 2018 BOZA hearing)	1 <sup>st</sup> tier adjoining property owners Subscribers of Council District 26 Notification of Development Proposals

## ATTACHMENTS

1. Zoning Map
2. Aerial Photograph



1. Zoning Map



2. Aerial Photograph

